

REMARKS

Claims 1-4, 7, 10, 13, 20-22, 26, and 29-30 stand rejected under 35 U.S.C. 103(a) as unpatentable over US patent application publication 2004/0044997 by Talati (hereinafter Talati) in view of US patent 6,658,659 to Hiller (hereinafter Hiller). Claims 5, 6, 8, 9, 11, 12, 23-25, and 27-28 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Talati and Hiller in view of US patent 6,986,132 to Schwabe (hereinafter Schwabe).

AMENDMENTS TO THE CLAIMS

Applicants have amended claim 1 with the limitation “...identify incompatibilities between the old code image and the new code image from version information, a difference in initialization requirements, and a difference in size and location between the old code image and the new code image ...” The amendment is well supported by the specification. See page 11, ¶ 38-39; page 19, ¶ 72.

Applicants have further amended claim 1 with the limitation “...reconcile the incompatibilities by changing an initialization order ...” The amendment is well supported by the specification. See page 11, ¶ 41.

Claims 10, 13, 20, 29, and 30 are similarly amended. Claims 5, 11, 18, 19, 24 and 26 are amended to conform to amended claims. Claims 8 and 27 are canceled.

RESPONSE TO CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-4, 7, 10, 13, 20-22, 26, and 29-30 stand rejected under 35 U.S.C. 103(a) as unpatentable over Talati in view of Hiller. Claims 5, 6, 8, 9, 11, 12, 23-25, and 27-28 stand

rejected under 35 U.S.C. § 103(a) as unpatentable over Talati and Hiller in view of Schwabe.

Applicants respectfully traverse these rejections.

Independent claim 1 includes the limitations:

a loader configured to load a new code image into a temporary memory location separate from a memory space occupied by and used by an old code image;

a logic module configured to **identify incompatibilities** between the old code image and the new code image from version information, **a difference in initialization requirements, and a difference in size and location** between the old code image and the new code image;

a bootstrap module, within the new code image, configured to **reconcile the incompatibilities by changing an initialization order**; and

a copy module configured to copy the new code image into the memory space occupied by the old code image.

Independent claims 10, 13, 20, 29, and 30 include similar limitations. Applicants submit that neither Talati, Hiller, nor Schwabe disclose identifying incompatibilities from a difference in initialization requirements and a difference in size and location between an old code image and a new code image. Hiller teaches identifying incompatibilities using compatibility vectors. Hiller, col. 9, lines 22-28; fig. 3A-3C, fig. 5. Schwabe discloses identifying incompatibilities by verifying internal consistency, verifying consistency with an API definition file, and comparing first and second versions of the program. Schwabe, Abstract. However, Talati, Hiller, and Schwabe do not teach the elements of identifying incompatibilities from a difference in initialization requirements and a difference in size and location between an old code image and a new code image.

Applicants also submit that Talati, Hiller, and Schwabe do not teach reconciling incompatibilities by changing an initialization order. Hiller teaches reconciling incompatibilities by loading specified versions of software, but does not disclose reconciling incompatibilities by changing an initialization order.

Because Talati, Hiller, and Schwabe do not teach each element of independent claims 1, 10, 13, 20, 29, and 30, Applicants submit that claims 1, 10, 13, 20, 29, and 30 are allowable. Furthermore, dependent claims 2-7, 9, 11-12, 14-19, 21-26, and 28 are allowable at least due to their dependency from independent claims 1, 10, 13, and 20.

CONCLUSION

Applicants submit that the remarks and amendments put the present application in condition for allowance. In the event the Examiner finds any remaining impediment to the prompt allowance of any of these claims, which could be clarified in a telephone conference, the Examiner is respectfully urged to initiate the same with the undersigned.

Respectfully submitted,

/Brian C. Kunzler/

Brian C. Kunzler
Reg. No. 38,527
Attorney for Applicants

Date: August 28, 2008
Kunzler & McKenzie
8 East Broadway, Suite 600
Salt Lake City, UT 84111
Telephone (801) 994-4646
Fax (801) 531-1929